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Rev **(1948) Department.**

Ms **SERIES.**

G.O. No.	1143
Dated	12-5-48

[Despatch Abstract.]

Tax - The Madras Sales of Motor Spirit Taxation Act, 1939 - Sections 10 and 24 - Amendments - Papers recorded.

REVENUE DEPARTMENT

MEMORANDUM FOR LEGISLATION.

Tax - The Madras Sales of Motor Spirit Taxation Act, 1939 - Sections 10 and 24 - Amendments.

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AMENDMENTS TO SECTION 10 OF THE MADRAS SALES OF MOTOR SPIRIT TAXATION ACT: Section 10 of the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939) provides, among other things, that any person who fails to pay the TAX DUE from him within the time allowed, or fraudulently evades the payment of any TAX DUE under this Act, shall on conviction by a Presidency Magistrate or a Magistrate of the First class, be liable to a fine which may extend to one thousand rupees and where the breach is a continuing one, to a further fine which may extend to fifty rupees for every day after the first during which the breach continues. The wording of this section closely follows the wording of Section 15 of the Madras General Sales Tax Act, 1939 (Madras Act IX of 1939). The words 'tax due' occurring in sub-clauses(b) and (d) of Section 15 of the Madras General Sales Tax Act, 1937 have led to arguments in the criminal courts that a tax is NOT due even though it had been duly assessed on the offender. A criminal court is obviously not the proper forum for such arguments. It has accordingly been proposed to bring out the intention clearly by making the failure or evasion to pay a tax DULY ASSESSED on the offender an offence under the Madras General Sales Tax Act. It has also been proposed to empower the Magistrate to recover the tax from a defaulter in addition to the fine imposed by the Magistrate. Though no difficulty has been experienced in the administration of the provisions of Section 10 of the Madras Sales of Motor Spirit Taxation Act, 1939, it is considered desirable to amend the section on the same lines as the proposed amendments to Section 15 of the Madras General Sales Tax Act, 1939. Sub-Sections (d) and (e) of Section 10 of the Madras Sales of Motor Spirit Taxation Act will read as follows when amended:-

"10.Any person who --

x x x

(d) fails to pay within the time allowed, any tax assessed on him, or

(e) fraudulently evades the payment of any tax assessed on him under this Act, or

x x x

shall on conviction by a Presidency Magistrate or a Magistrate of the first class, be liable to a fine which may extend to one thousand rupees and in the case of a conviction under clause(d) or (e), the Magistrate shall specify in the order the tax which the person convicted has failed or evaded to pay and the tax so specified shall be recoverable as if it were a fine."

2. AMENDMENT TO SECTION 24 (1)(a) OF THE MADRAS SALES OF MOTOR SPIRIT TAXATION ACT. Under this section, the Board of Revenue is the appellate authority for orders passed by the Commercial Tax Officer. The Board of Revenue has stated that the Deputy Commissioners of Commercial Taxes have got territorial jurisdiction and statutory powers of supervision, direction and control over the Commercial Tax Officers under the Madras General Sales Tax Act, but that they have not got statutory powers to examine and revise the appellate orders of the Commercial Tax Officer under the Madras Sales of Motor Spirit Taxation Act. To ensure better administration of the Act, the Board has recommended that the Deputy Commissioners should have such statutory powers under the Madras Sales of Motor Spirit Taxation Act also. It has been suggested that the Deputy Commissioner of the Range concerned should be made the appellate authority in the place of the Board. It is therefore proposed to amend section 24(1)(a) of the Madras Sales of Motor Spirit Taxation Act as follows:-

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"In clause (a) of sub-section (1) of section 24 of the said Act for the words "Board of Revenue" substitute the words "The Deputy Commissioner of the Range."

3. Orders of the Government are solicited whether legislation will be undertaken to amend sections 10 and 24 of the Madras Sales of Motor Spirit Taxation Act, 1939 as proposed in paragraphs 1 and 2 above.

B.Gopala Reddy,
Hon'ble Minister for Finance.

Circulated to H.M. for recording opinion with reference to the instruction 32 (2) of the Secretariat Instructions.

/True copy/

Office Assistant,
Madras Record Office.

PSR. 21-12-53.

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